

75-5-407. Procedure concerning hearing and order on original petition.

(1) Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for the hearing on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if 14 years of age or older. An attorney appointed by the court to represent a minor has the powers and duties of a guardian ad litem.

(2) Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected has already retained counsel, the court may appoint an attorney to represent the person to be protected who then has the powers and duties of a guardian ad litem.

(3) The legal representation of the protected person by an attorney shall terminate upon the appointment of a conservator, unless:

(a) there are separate guardianship proceedings still pending before the court subsequent to the appointment of a conservator;

(b) there is a timely filed appeal of the appointment of the conservator; or

(c) upon an express finding of good cause, the court orders otherwise.

(4) If the alleged disability is mental illness, mental deficiency, physical illness or disability, advanced age, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer or employee of the court.

(5) After hearing, upon finding that a basis for the appointment of a conservator or other protective order has been established, the court shall make an appointment or other appropriate protective order.

Amended by Chapter 364, 2013 General Session